



MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE

STANDARD SOLICITATION, COMPETITIVE BIDS, ACCEPTANCE FORM, AND CONTRACT FOR (DHMH FORM 3982)

On-site Mobile Imaging Services at Clifton T. Perkins

DHMH OPASS 10-10132

If this Invitation For Bids was obtained by any means other than the Issuing Office identified herein, please contact that office immediately to ensure that you receive all addenda or errata.

Minority Business Enterprises Are Encouraged To Respond To This Solicitation

**VENDORS AND CONTRACTORS
ENCOURAGEMENT OF PARTICIPATION STATEMENT**

The State of Maryland is actively seeking to increase participation from businesses and organizations in the procurement of goods and/or services. Accordingly, all potential bidders are encouraged to complete the "Vendor/Contractor Survey", which is on the following page. We ask that you supply any comments regarding the solicitation process or documents and/or the reason(s) for declining to bid. Please return this form either with your submission package or in an envelope addressed to the Issuing Office, identified on page 1 in this Invitation For Bids even if you are not bidding on this solicitation.

KEY INFORMATION SUMMARY PAGE

Title of IFB: On-site Mobile Imaging Services at Clifton T. Perkins

IFB Issue Date: July 17, 2009

IFB Number: DHMH-OPASS 10-10132

Description of services: Provision of mobile medical diagnostic imaging services on the grounds of Clifton T. Perkins Hospital Center. Services shall include X-ray, CT Scan, MRI (closed), bone densitometry, mammography and ultrasound.

Minimum Requirements:

The contractor shall have at least two (2) years of experience in providing Mobile Imaging Services.

Procurement Method: Competitive Sealed Bids (COMAR 21.05.02)

Contract Term:	Base	October 1, 2009 – September 30, 2012
	Option # 1	October 1, 2012 – September 30, 2013
	Option # 2	October 1, 2013 – September 30, 2014

eMaryland Marketplace: In order to receive a contract award, a vendor must be registered on eMaryland Marketplace (eMM). The eMM website is <https://ebidmarketplace.com/>.

Electronic Funds Transfer: By submitting a response to this solicitation, the Bidder agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected Bidder shall register using the attached form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form (Appendix F). Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption.

Issuing Office: Procurement Department
Clifton T. Perkins Hospital Center
8450 Dorsey Run Road, Jessup, Maryland 20794

Issuing Office Point of Contact: James R. Jones, CPPB
Clifton T. Perkins Hospital Center
8450 Dorsey Run Road, Jessup, Maryland 20794
Phone: 410-724-3102; Fax: 410-724-3102
jonesj@dhmh.state.md.us

Procurement Officer: Sharon Gambrill, CPPB
Assistant Director of Procurement
Office of Procurement and Support Services (OPASS)
201 West Preston Street, Room 416B
Baltimore, MD 21201
Phone: 410-767-5816
Fax: 410-333-5857
GAMBRILLS@dhmh.state.md.us

Contract Monitor: Peggy Takovick
8540 Dorsey Run Road
Jessup, Maryland 20794
Phone: 410-724-3186
takovickp@dhmh.state.md.us

Deadline for receipt of bids: Monday, August 10, 2009 – 2:00 pm

Bids Received At: James R. Jones, CPPB
Clifton T. Perkins Hospital Center
Procurement Department, Rm. 2P00
8450 Dorsey Run Road, Jessup, Maryland 20794

Pre-bid conference: Clifton T. Perkins Hospital Center, 8540 Dorsey Run Road, Jessup, Maryland 20794, Silver Wing Conference Room, Wednesday, July 29, 2009 at 1:00 p.m.

A MBE Subcontracting Goal of 3% has been established for the contract to result from this solicitation.

Vendor Comments

In order to help us improve the quality of State solicitations, and make our procurement process more responsive and business-friendly, we ask that you take a few minutes to complete this form and submit it to the Procurement Officer listed on the following page. Thank you for your assistance.

Bid Number: DHMH/OPASS # 10-10132 Entitled: On-Site Mobile Imaging Services at Clifton T. Perkins

I. If you are not bidding, please indicate why:

- ☐ Other commitments preclude our participation at this time.
- ☐ The subject of the solicitation is not in our business line.
- ☐ We lack experience in the work/commodities required.
- ☐ The scope of work is beyond our current capacity.
- ☐ We cannot be competitive (Please explain below.)
- ☐ Specifications are either unclear or too restrictive. (Please explain below.)
- ☐ Bid/proposal requirements, other than specifications, are unreasonable or too risky. (Please explain below.)
- ☐ Time for completion is insufficient.
- ☐ Bonding/insurance requirements are prohibitive. (Please explain below.)
- ☐ Doing business with government is simply too complicated.
- ☐ Prior experience with State of Maryland contracts was unprofitable or otherwise unsatisfactory (Please explain below.)
- ☐ Other: _____

II. Please explain your response further, offer suggestions or express concerns. (Use the back for additional information.)

REMARKS: _____

OPTIONAL:

Vendor Name: _____ Date _____

Contact Person: _____ Phone (____) _____ - _____

Address or e-mail: _____

Thank You!!!

**STANDARD SOLICITATION:
COMPETITIVE BIDS, ACCEPTANCE FORM,
AND CONTRACT**

July 17, 2009

Date of Solicitation

On-site Mobile Imaging Services at Clifton T. Perkins Hospital Center

Note: Minority Business Enterprises are encouraged to respond to this solicitation notice.

Part I – III Standard Solicitation, Bid and Acceptance Form Pages 6 - 25
Part IV – VIII Contract Pages 26 - 51

PART I - SOLICITATION INFORMATION AND INSTRUCTIONS

General:

Clifton T. Perkins Hospital Center, operated by the Mental Hygiene Administration, a unit of the Maryland Department of Health and Mental Hygiene, hereinafter called the Department desires competitive sealed bids for the purpose of obtaining On-site Mobile Imaging Services at Clifton T. Perkins as described in PART II of this solicitation.

ATTENTION: Bids should be typed or written legibly in ink. The signer shall initial all erasures and other changes in ink. All bid envelopes shall be labeled with the following information:

- Competitive Sealed Bids
- On-site Mobile Imaging Services at Clifton T. Perkins
- Monday, August 10, 2009 @ 2:00 p.m.

SEALED BID - Technical On-site Mobile Imaging Services at Clifton T. Perkins Hospital Center Friday, July 10, 2009 - 2:00 pm EST

Bid Due Date and Time:

Entire Sealed bids, in triplicate, will be received at the Office of:

James R. Jones, CPPB
Procurement Department
Clifton T. Perkins Hospital Center
450 Dorsey Run Road, Room 2P00
Jessup, Maryland 20794

on Monday, August 10th, until 2:00 o'clock P.M. local time, and then, unless specified otherwise in PART II, publicly opened. Any bid not received by this time and date shall not be considered (See PART III, E).

Delivery of Bids:

Bidders may either mail or hand-deliver bids. Hand-delivery includes delivery by commercial carrier. For any type of direct (non-mail) delivery, bidders are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery. (See attached "Standard Addendum for the Means of Delivering Bids and Proposals." (APPENDIX C)

eMaryland Marketplace (eMM):

In order to receive a contract award, a vendor must be registered on eMM. The eMM website is <https://ebidmarketplace.com/>

Electronic Funds Transfer:

By submitting a response to this solicitation, the bidder agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected bidder shall register using form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form attached as Appendix E. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption.

Pre-Bid Conference:

The Department will hold a pre-bid conference concerning this bid. This conference will be held at 1:00 P. M. o'clock local time on Wednesday, July 29, 2009, at Clifton T. Perkins Hospital Center, 8450 Dorsey Run Road, Jessup, Maryland in the Silver Wing Conference Room.

Notice is hereby given that attendance at the pre-bid conference described above is not a condition to bid on this solicitation. However, the information provided at the pre-bid conference is often very helpful; therefore, vendors are encouraged to attend. For further information regarding the pre-bid conference, please contact:

Kelli Francis
8450 Dorsey Run Road
Jessup, Maryland 20794
Phone: (410) 724 3104
Fax: (410) 724-3100
pitcockk@dhmh.state.md.us

Procurement Officer:

The Procurement Officer responsible for this solicitation is:
Sharon Gambrell, CPPB, Assistant Director of Procurement
Office of Procurement and Support Services (OPASS)
201 West Preston Street, Room 416B
Baltimore, MD 21201
Phone: (410) 767-5117

PART II – SPECIFIC REQUIREMENTS/DELIVERABLES OF PROPOSED CONTRACT (SPECIFICATIONS) AND BID PAGE

Background:

Clifton T. Perkins Hospital Center (CTPHC), located in Jessup, Howard County, Maryland, is the maximum-security forensic psychiatric hospital for the State of Maryland. CTPHC conducts pretrial evaluations of defendants referred by the Courts in criminal matters and also provides the State of Maryland with forensic and other specialized services for the benefit of persons with mental disorder or disability, the Criminal Justice System, other Mental Health Treatment Centers, and safety and security of the Community. CTPHC is administered by the Maryland Department of Health and Mental Hygiene, Mental Hygiene Administration. CTPHC has an average daily inpatient population ranging from 206 to 215 patients and is accredited by The Joint Commission and is anticipated to rise to a range of 250 to 260 patients over the next five years.

Mandatory Qualifications/Requirements:

- A. The contractor shall have at least two (2) years of experience in providing Mobile Imaging Services.
- B. The contractor shall be certified by the Centers for Medicare and Medicaid Services (CMS) as required at 42 CFR Part 486 et alia.
- C. Employees, contractors and consultants of the contractor shall be licensed or certified as required at 42 CFR 486 and the Maryland Code Annotated, Health Occupations Article, and shall remain licensed or certified throughout the term of the contract. Radiographers employed by the contractor shall hold a current license with the Maryland Board of Physicians and shall maintain such licensure throughout the entire term of the contract.

Physicians, whether employed or contracted, shall be licensed to practice medicine in Maryland. Contractor shall be board certified by the specialty board in all reading studies, i.e., radiologists, cardiologists, etc.

Services To Be Performed:

I General-

The contractor shall provide all of the necessary equipment supplies and personnel required to deliver on-site mobile diagnostic imaging services as directed by the CTPHC Medical Services Staff to include but not be limited to the following:

- A. X-ray Services
- B. Mammogram Services
- C. Bone Densitometry
- D. Mobile Resonance Imaging (MRI) Services (closed unit)
- E. Computerized Tomography Scan Services (CT)
- F. Ultrasound Services

II Personnel-

- A. The contractor shall provide the names, position descriptions and credentials (education, licensure status, competency, continuing medical education, peer references, and acceptable findings in National Practitioners Data Bank Inquiry) of each employee, contractor or consultant employed or used by the contractor in the provision of services under this contract. Verification of credentials, if requested by the DHMH Contract Monitor, shall be submitted within 48 hours of such request.
- B. All personnel described in the contractor's technical bid shall perform continuously for the duration of the contract, and for so long as performance is satisfactory to the Department's Contract Monitor. If performance of any personnel is not satisfactory, the Contract Monitor will give written notice of performance issues to the contractor, clearly describing the problem and delineating remediation requirement(s). The contractor shall respond with a written remediation plan within three (3) business days and implement the plan immediately upon written acceptance by the Contract Monitor. If performance issues persist, the DHMH Contract Monitor will request the immediate removal of the person(s) whose performance is at issue and determine whether a substitution is required.
- C. Other than as indicated above, the contractor may not substitute personnel, other than by reason of an individual's death, sudden illness or termination of employment, without the prior written approval of the DHMH Contract Monitor. To replace any personnel specified in the contractor's bid, the contractor shall submit the resumes of the proposed substitute personnel to the DHMH Contract Monitor for approval at least two weeks prior to the effective date of substitution. All proposed substitute personnel shall have qualifications at least equal to those of the replaced personnel, and shall be approved by the Contract Monitor prior to performing services under the contract that results from this solicitation.
- D. The contractor shall ensure that all employees involved in this contract have received annual tuberculosis screen testing (TST) and are free of active tuberculosis and must provide evidence of that fact to CTPHC upon demand.

III Equipment-

- A. The contractor shall provide equipment transportation, tractors and drivers delivery and set up, complete maintenance and service or maintenance/service coverage and applications training on all equipment used to provide services under this contract.
- B. Equipment shall be approved by the U.S. Food and Drug Administration, licensed by the Maryland Office of Health Care Quality and registered by the Maryland Department of the Environment, Radiological Health Program as required.
- C. The contractor shall cooperate with CTPHC in site planning and preparation for set up and operation of equipment.

IV. Supplies-

- A. All expendable and reusable supplies, i.e. film cassettes, gowns, towels/wipes, cleaners/disinfectants, film, ultrasound gel, contrast media, etc. shall be supplied by the contractor unless otherwise agreed upon in advance by the CTPHC Contract Monitor.

- B. All supplies intended for use inside the secure perimeter by the contractor shall be listed on an inventory sheet and approved by CTPHC Security Department prior to being brought into the secure area.

V. Services-

- A. The contractor shall provide:
 - a. Evaluations of patients referred by Medical Services staff;
 - b. Imaging services requested by the health care providers at this institution;
 - c. Professional interpretations and written reports.
- B. The contractor shall normally conduct services every six to eight weeks for all imaging services with the exception of X-ray services which shall be done as needed and within 48 hours of the referral to the contractor.
- C. The contract shall perform required services at the agreed upon date.. It is expected that the length of stay for each visit will be a maximum of eight hours. The visits will normally be scheduled between the hours of 7:30 am and 4:00 pm; Monday through Friday.
- D. The contractor will be notified, by Medical Services Staff, no less than 72 hours in advance of the requested date of service, the type of services required, and the number of patients to be examined. The number of patients will be determined by the Medical Services Staff and will vary. Based upon previously required services, approximately 10 - 15 patients per visit will require service. The services will be requested every six to eight weeks.
- E. Wet reading of x-rays shall be done, and Medical Services notified, within 8 hours of the exam for urgent referrals.
- F. Multiple views of one organ or joint is considered one exam for the purposes of the contract that results from this solicitation.
- G. The contractor shall be responsible for the cost of all professional interpretations of imaging services.

VI Reports-

- A. All imaging reports shall be in typewritten or computerized format. Typed signatures shall be provided by the contractor.
- B. The contractor shall provide Contract Monitor with reports within 72 hours of related imaging services
- C. The contractor shall provide a summary of services, listing patient and test, to the CTPHC Contract Monitor bi-annually on a date mutually agreed upon by CTPHC and the contractor.
- D. All imaging reports done under the terms of this contract shall be the property of the State of Maryland and considered a part of the patient's health care records.

- E. The radiologist or other specialist shall be required to telephone CTPHC as soon as possible in the event of any serious abnormal reading.

Between the hours of 7:00 A.M. – 5:00 P.M. Monday - - Friday, call the Medical Clinic at (410) 724-3150.

After hours and on the Weekends, call the Nursing Supervisor's Office at (410) 724-3196.

Insurance Requirements:

Prior to commencing work on this contract, the contractor shall provide the Department with a Certificate of Insurance for itself and any subcontractor under the agreement covering claims arising from the operations and provided under the contract. These insurance coverages shall include the following, as well as any insurance as necessary and required by the U.S. Longshoreman's and Harbor Worker' Compensation Act, the Federal Employers' Liability Act, and any other applicable statute:

- A. The statutory limit for Worker's Compensation coverage;
- B. Broad Form Comprehensive General Liability Insurance with a minimum bodily injury limit of \$300,000 for each person and \$500,000 aggregate for each.
- C. Professional Liability Insurance with a minimum limit of \$1,000,000 per incident and \$3,000,000 aggregate for each occurrence; and
- D. Automobile Liability, if applicable.

All coverages shall be provided by insurance companies licensed to do business in the State of Maryland and shall be endorsed to provide 30 day notice of cancellation or non-renewal to the Department's Contract Monitor identified in PART III of this document. All insurance shall be in an amount and type acceptable to the State of Maryland. Any self-insurance program must be documented including any necessary regulatory approval.

The contractor will name the State of Maryland as an Additional Named Insured on all liability policies (Workers' Compensation excepted).

Bid Submission Requirements:

The bidder shall submit one copy of the following with each bid submission: Bids shall be submitted in a sealed envelope clearly marked "**On-site Mobile Imaging Services at Clifton T. Perkins**" with the date, time and location where the bids are to be delivered. The Signature Pages must be properly completed and the bid shall contain a complete set of bid pages for the 3 Years Base and 2 One Year Option Terms.

Copies of certification as a Registered Technologist (RT) by The American Registry of Radiologic Technologists (ARRT) including any required specialty certifications.

Current Maryland Radiology Technologist License including any required specialty licensing.

Bid Proposal Affidavit:

All bidders must complete and submit with their bid, the Bid/Proposal Affidavit attached hereto. See APPENDIX A

Proof of Fiscal Integrity:

The bidder shall provide the most current annual report to stockholders and/or any documentation that indicates corporate and/or other financial resources that will permit the bidder to fulfill the terms of this IFB. This documentation may include but is not limited to, one or all of the following:

- A. Dunn and Bradstreet Ratings
- B. Audited Financial Statements
- C. Line(s) of Credit
- D. Successful financial track record
- E. Adequate Working Capital

Legal Action Summary:

The bidder shall provide a Legal Action Summary that includes:

- A. A statement as to whether there are any outstanding legal actions or potential claims against the bidder and a brief description of any such action.
- B. A brief description of any settled or closed legal actions or claims against the bidder over the past five (5) years.
- C. A description of any judgments against the Bidder within the past five (5) years, including the case name, number court, and what the final ruling or determination was from the court.
- D. In instances where litigation is ongoing and the bidder has been directed not to disclose information by the court, provide the name of the judge and location of the court.

Past State Experience:

As part of its offer, each Bidder is to provide a list of all contracts with any entity of the State of Maryland that it is currently performing or which have been completed within the last 5 years. For each identified contract the Bidder is to provide:

- A. The State contracting entity
- B. A brief description of the services/goods provided
- C. The dollar value of the contract
- D. The term of the contract
- E. The State employee contact person (name, title, telephone number and if possible e-mail address)
- F. Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Affidavit of Agreement

Maryland Living Wage Requirements-Service Contracts

Minority Business Enterprise (MBE) Affidavits and Documentation:

The bidder shall provide the required MBE affidavit and documentation (MBE Attachment A,

and MBE Attachment B), identified in Part IV of this document, as part of the bid submission. The MBE must be certified in Maryland. **(MBE Attachments are posted separately) Failure to include these documents in the sealed bid shall render the bid non-responsive and require that the Department not consider the bid for award.**

Basis For Award

The contract resultant from this solicitation shall be awarded to the responsive and responsible bidder submitting the most favorable (lowest) bid price that meet all requirements indicated above.

BID PAGE

On-site Mobile Imaging Services at Clifton T. Perkins

(Solicitation/Contract Title)

Instructions on how to prepare the bid page:

Price per test times (X) estimated services per year = Estimated cost per year

Year 1 _____

Test	Price per Test (A)	Estimated Services per Year (B)	Estimated Cost per Year (C)
Radiography (X-ray)			
Bone Densitometry	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Bone	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Chest	\$ _____ x	_____ 50 _____ =	\$ _____
X-ray (Radiography), Lower GI Tract	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Upper GI Tract	\$ _____ x	_____ 10 _____ =	\$ _____
Ultrasound			
Obstetric Ultrasound – Pelvis	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Abdomen	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Breast	\$ _____ x	_____ 10 _____ =	\$ _____
Ultrasound - Prostate	\$ _____ x	_____ 10 _____ =	\$ _____
Ultrasound - Thyroid	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound – Vascular Doppler	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Venous (Extremities)	\$ _____ x	_____ 2 _____ =	\$ _____
Mammography			
Mammography	\$ _____ x	_____ 70 _____ =	\$ _____
Ultrasound-Guided Breast Biopsy	\$ _____ x	_____ 2 _____ =	\$ _____
Computed Tomography (CT)			
Computed Tomography (CT) - Abdomen and Pelvis	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) - Chest	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) - Head	\$ _____ x	_____ 10 _____ =	\$ _____

Computed
Tomography (CT) –
Sinuses \$ _____ x _____ 2 _____ = \$ _____

Computed
Tomography (CT) –
Spine \$ _____ x _____ 10 _____ = \$ _____

Magnetic Resonance Imaging (MRI)

Magnetic Resonance
Imaging (MRI) -
Breast \$ _____ x _____ 5 _____ = \$ _____

Magnetic Resonance
Imaging (MRI) - Chest \$ _____ x _____ 10 _____ = \$ _____

Magnetic Resonance
Imaging (MRI) - Chest \$ _____ x _____ 2 _____ = \$ _____

Magnetic Resonance
Imaging (MRI) - Head \$ _____ x _____ 10 _____ = \$ _____

Magnetic Resonance
Imaging (MRI) -
Musculoskeletal \$ _____ x _____ 10 _____ = \$ _____

Magnetic Resonance
Imaging (MRI) - Spine \$ _____ x _____ 5 _____ = \$ _____

Magnetic Resonance,
Functional (fMRI) -
Brain \$ _____ x _____ 2 _____ = \$ _____

Total Estimated Cost Year 1: \$ _____
(Sum totals in column C)

Note: The quantities shown on the Bid Page are estimates for bid purposes only and may not be considered as a requirement on the part of the Department to purchase a minimum or maximum of services. Payment to the contractor will be based on the unit price times the actual number of services purchased under the contract.

Important: Do not alter this page. Failure to fill out this bid page completely, or altering the bid page in any way may render your bid non-responsive. Should you have any questions regarding this bid page contact the Procurement Officer identified in PART I.

Test	Price per Test (A)	Estimated Services per Year (B)	Estimated Cost per Year (C)
Radiography (X-ray)			
Bone Densitometry	\$ _____ x	15 _____ =	\$ _____
X-ray (Radiography), Bone	\$ _____ x	15 _____ =	\$ _____
X-ray (Radiography), Chest	\$ _____ x	50 _____ =	\$ _____
X-ray (Radiography), Lower GI Tract	\$ _____ x	15 _____ =	\$ _____
X-ray (Radiography), Upper GI Tract	\$ _____ x	10 _____ =	\$ _____
Ultrasound			
Obstetric Ultrasound- Pelvis	\$ _____ x	15 _____ =	\$ _____
Ultrasound - Abdomen	\$ _____ x	15 _____ =	\$ _____
Ultrasound - Breast	\$ _____ x	10 _____ =	\$ _____
Ultrasound - Prostate	\$ _____ x	10 _____ =	\$ _____
Ultrasound - Thyroid	\$ _____ x	15 _____ =	\$ _____
Ultrasound – Vascular Doppler	\$ _____ x	15 _____ =	\$ _____
Ultrasound - Venous (Extremities)	\$ _____ x	2 _____ =	\$ _____
Mammography			
Mammography	\$ _____ x	70 _____ =	\$ _____
Ultrasound-Guided Breast Biopsy	\$ _____ x	2 _____ =	\$ _____
Computed Tomography (CT)			
Computed Tomography (CT) - Abdomen and Pelvis	\$ _____ x	10 _____ =	\$ _____
Computed Tomography (CT) - Chest	\$ _____ x	10 _____ =	\$ _____
Computed Tomography (CT) - Head	\$ _____ x	10 _____ =	\$ _____
Computed Tomography (CT) - Sinuses	\$ _____ x	2 _____ =	\$ _____
Computed Tomography (CT) – Spine	\$ _____ x	10 _____ =	\$ _____
Magnetic Resonance Imaging (MRI)			

Magnetic Resonance Imaging (MRI) – Breast	\$ _____ x	_____ 5 _____ =	\$ _____
Magnetic Resonance Imaging (MRI) - Chest	\$ _____ x	_____ 10 _____ =	\$ _____
Magnetic Resonance Imaging (MRI) - Chest	\$ _____ x	_____ 2 _____ =	\$ _____
Magnetic Resonance Imaging (MRI) - Head	\$ _____ x	_____ 10 _____ =	\$ _____
Magnetic Resonance Imaging (MRI) - Musculoskeletal	\$ _____ x	_____ 10 _____ =	\$ _____
Magnetic Resonance Imaging (MRI) - Spine	\$ _____ x	_____ 5 _____ =	\$ _____
Magnetic Resonance Functional (fMRI) - Brain	\$ _____ x	_____ 2 _____ =	\$ _____

Total Estimated Cost Year 2: \$ _____
(Sum totals in column C)

Note: The quantities shown on the Bid Page are estimates for bid purposes only and may not be considered as a requirement on the part of the Department to purchase a minimum or maximum of services. Payment to the contractor will be based on the unit price times the actual number of services purchased under the contract.

Important: Do not alter this page. Failure to fill out this bid page completely or altering the bid page in any way may render your bid non-responsive. Should you have any questions regarding this bid page contact the Procurement Officer identified in PART I.

Test	Price per Test (A)	Estimated Services per Year (B)	Estimated Cost per Year (C)
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Bone Densitometry	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Bone	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Chest	\$ _____ x	_____ 50 _____ =	\$ _____
X-ray (Radiography), Lower GI Tract	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Upper GI Tract	\$ _____	_____ 10 _____ =	\$ _____
Ultrasound			
Obstetric Ultrasound- Pelvis	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Abdomen	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Breast	\$ _____ x	_____ 10 _____ =	\$ _____
Ultrasound - Prostate	\$ _____ x	_____ 10 _____ =	\$ _____
Ultrasound - Thyroid	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound – Vascular Doppler	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Venous (Extremities)	\$ _____ x	_____ 2 _____ =	\$ _____
Mammography			
Mammography	\$ _____ x	_____ 70 _____ =	\$ _____
Ultrasound-Guided Breast Biopsy	\$ _____ x	_____ 2 _____ =	\$ _____
Computed Tomography (CT)			
Computed Tomography (CT) - Abdomen and Pelvis	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) - Chest	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) - Head	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) - Sinuses	\$ _____ x	_____ 2 _____ =	\$ _____
Computed Tomography (CT) – Spine	\$ _____ x	_____ 10 _____ =	\$ _____
Magnetic Resonance Imaging (MRI)			

Magnetic Resonance Imaging (MRI) - Breast	\$ _____ x	5	=	\$ _____
Magnetic Resonance Imaging (MRI) - Chest	\$ _____ x	10	=	\$ _____
Magnetic Resonance Imaging (MRI) - Chest	\$ _____ x	2	=	\$ _____
Magnetic Resonance Imaging (MRI) - Head	\$ _____ x	10	=	\$ _____
Magnetic Resonance Imaging (MRI) - Musculoskeletal	\$ _____ x	10	=	\$ _____
Magnetic Resonance Imaging (MRI) - Spine	\$ _____ x	5	=	\$ _____
Magnetic Resonance, Functional (fMRI) - Brain	\$ _____ x	2	=	\$ _____

Total Estimated Cost Year 3: \$ _____
(Sum totals in column C)

Total 3-year estimated bid price for services as described in Section IV: \$ _____
(Sum the Total Estimated Costs for Years 1-3)

Bid Price Attested to by _____ Date _____
(Signature)

Important: Do not alter this page. Failure to fill out this bid page completely, or altering the bid page in any way may render your bid non-responsive. Should you have any questions regarding this bid page contact the Procurement Officer identified in PART I.

By submitting this bid, the bidder, in the event of contract award, agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. See Part I Electronic Funds Transfer.

Test	Price per Test (A)	Estimated Services per Year (B)	Estimated Cost per Year (C)
Radiography (X-ray)			
Bone Densitometry	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Bone	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Chest	\$ _____ x	_____ 50 _____ =	\$ _____
X-ray (Radiography), Lower GI Tract	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Upper GI Tract	\$ _____ x	_____ 10 _____ =	\$ _____
Ultrasound			
Obstetric Ultrasound - Pelvis	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Abdomen	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Breast	\$ _____ x	_____ 10 _____ =	\$ _____
Ultrasound - Prostate	\$ _____ x	_____ 10 _____ =	\$ _____
Ultrasound - Thyroid	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound – Vascular Doppler	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Venous (Extremities)	\$ _____ x	_____ 2 _____ =	\$ _____
Mammography			
Mammography	\$ _____ x	_____ 70 _____ =	\$ _____
Ultrasound-Guided Breast Biopsy	\$ _____ x	_____ 2 _____ =	\$ _____
Computed Tomography (CT)			
Computed Tomography (CT) - Abdomen and Pelvis	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) - Chest	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) - Head	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) - Sinuses	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) – Spine	\$ _____ x	_____ 10 _____ =	\$ _____
Magnetic Resonance Imaging (MRI)			

Magnetic Resonance Imaging (MRI) – Breast	\$ _____ x	_____ 5 _____ =	\$ _____
Magnetic Resonance Imaging (MRI) - Chest	\$ _____ x	_____ 10 _____ =	\$ _____
Magnetic Resonance Imaging (MRI) - Chest	\$ _____ x	_____ 2 _____ =	\$ _____
Magnetic Resonance Imaging (MRI) - Head	\$ _____ x	_____ 10 _____ =	\$ _____
Magnetic Resonance Imaging (MRI) - Musculoskeletal	\$ _____ x	_____ 10 _____ =	\$ _____
Magnetic Resonance Imaging (MRI) - Spine	\$ _____ x	_____ 5 _____ =	\$ _____
Magnetic Resonance, Functional (fMRI) - Brain	\$ _____ x	_____ 2 _____ =	\$ _____

Total Estimated Cost Option Year #1: \$ _____
(Sum totals in column C)

Option Year 2

Test	Price per Test (A)	Estimated Services per Year (B)	Estimated Cost per Year (C)
Radiography (X-ray)			
Bone Densitometry	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Bone	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Chest	\$ _____ x	_____ 50 _____ =	\$ _____
X-ray (Radiography), Lower GI Tract	\$ _____ x	_____ 15 _____ =	\$ _____
X-ray (Radiography), Upper GI Tract	\$ _____ x	_____ 10 _____ =	\$ _____
Ultrasound			
Obstetric Ultrasound - Pelvis	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Abdomen	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Breast	\$ _____ x	_____ 10 _____ =	\$ _____
Ultrasound - Prostate	\$ _____ x	_____ 10 _____ =	\$ _____
Ultrasound - Thyroid	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound – Vascular Doppler	\$ _____ x	_____ 15 _____ =	\$ _____
Ultrasound - Venous (Extremities)	\$ _____ x	_____ 2 _____ =	\$ _____
Mammography			
Mammography	\$ _____ x	_____ 70 _____ =	\$ _____
Ultrasound-Guided Breast Biopsy	\$ _____ x	_____ 2 _____ =	\$ _____
Computed Tomography (CT)			
Computed Tomography (CT) - Abdomen and Pelvis	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) - Chest	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) - Head	\$ _____ x	_____ 10 _____ =	\$ _____
Computed Tomography (CT) - Sinuses	\$ _____ x	_____ 2 _____ =	\$ _____
Computed Tomography (CT) – Spine	\$ _____ x	_____ 10 _____ =	\$ _____
Magnetic Resonance Imaging (MRI)			
Magnetic Resonance Imaging (MRI) –	\$ _____ x	_____ 5 _____ =	\$ _____

Breast

Magnetic Resonance
Imaging (MRI) - Chest \$ _____ x _____ 10 _____ = \$ _____

Magnetic Resonance
Imaging (MRI) - Chest \$ _____ x _____ 2 _____ = \$ _____

Magnetic Resonance
Imaging (MRI) - Head \$ _____ x _____ 10 _____ = \$ _____

Magnetic Resonance
Imaging (MRI) -
Musculoskeletal \$ _____ x _____ 10 _____ = \$ _____

Magnetic Resonance
Imaging (MRI) - Spine \$ _____ x _____ 5 _____ = \$ _____

Magnetic Resonance,
Functional (fMRI) -
Brain \$ _____ x _____ 2 _____ = \$ _____

Total Estimated Cost Option Year #2: \$ _____
(Sum totals in column C)

Total Estimated Cost for 3 Base Years, plus Total Estimate Costs in
Option Year 1, and Option Year 2 = \$ _____
Basis for Award

PART III -- GENERAL SOLICITATION AND BID PROVISIONS

- A. The Department of Health and Mental Hygiene reserves the right to cancel this solicitation or reject any or all bids, in whole or in part, to waive minor irregularities in bids, or to allow the bidder to correct a minor irregularity if the best interest of the State will be served by doing so (COMAR 21.06.02).
- B. All bids become the property of the Department of Health and Mental Hygiene. Neither the Department nor the State of Maryland shall be responsible for any expenses incurred by the bidders in preparing or submitting their bids.
- C. All bidders shall acknowledge the receipt of all amendments, addenda, and changes issued in connection with this solicitation.
- D. Bids may be modified or withdrawn by written notice received in the office designated in this Solicitation before the time and date set for the opening. If expressly permitted in the invitation for bids, notification of bid modification or withdrawal may be made by electronic means only in the manner specified in the invitation for bids.
- E.
 - 1. A bid, request to withdraw a bid, or a modification to a bid is late if it is not received by the Department at the place and by the date and time specified on page 1 of this Solicitation.
 - 2. A late bid, late modification, or late request for withdrawal shall not be considered. Exceptions may be made when a late bid is received before contract award, and the bid, the modification, or withdrawal would have been timely but for the action or inaction of State personnel directing the procurement activity or their employees. A late modification of a successful bid, which makes its terms more favorable to the State, shall be considered at any time it is received and may be accepted.
- F. All bidders must complete and submit with their bid the Bid/Proposal Affidavit attached hereto as Appendix A. Note that the Contract Affidavit (Appendix B) must be submitted by the successful bidder within ten (10) business days of being notified of recommendation for award.
- G. Unless otherwise specified under PART II of this solicitation, this contract shall be awarded to the responsive and responsible bidder submitting the most favorable (lowest) bid price.
- H. Bidders should give specific attention to the identification of those portions of their proposal that they deem to be confidential, proprietary information, or trade secrets and provide any justification of why this information should not be disclosed under the Annotated Code of Maryland, §§ 10-611 through 10-630 of the State Government Article. Bidders are advised that, upon request for this information from a third party, the Department is required to make an independent determination as to whether the information may or must be divulged to the party. Bidders are further advised that bids will be opened publicly unless specifically stated otherwise in Section II (see COMAR 21.05.02.11 and 21.05.02.17).
- I. Any bidder or other interested person who is aggrieved by the award of the contract

resulting from this solicitation may protest that decision. If a protest is made, it shall be in accordance with the procedures set forth at COMAR 21.10.02.03. and 04.

- J. The State reserves the right to make the award by item, group of items, or total bid if it is in the best interest of the State to do so, unless the bidder specifies in its bid that a partial or progressive award is not acceptable. Note: this may render the bid non-responsive.
- K. The prices bid in response to this solicitation are irrevocable for a period of 90 days following the bid opening unless another period of time is contained in the bid specifications.
- L. Although Maryland law does not authorize procuring agencies to favor resident Bidders in awarding procurement contracts, many other states do grant their resident businesses preference over Maryland contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Bidder whose headquarters, principal base of operations, or principal site that will primarily provide the services required under this INVITATION FOR BIDS is in another state submits the most advantageous bid; the other state gives a preference to its residents through law, policy, or practice; and, the preference to be applied to the contract award herein does not conflict with a Federal law or grant affecting the procurement contract. The preference given shall be identical to the preference that the other state, through law, policy or practice gives to its residents.

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PART IV -- CONTRACT INFORMATION

Parties and Term of Contract:

This Contract, dated [enter today's date], is made by and between:

[enter the complete name of the contractor including any abbreviation, i.e. Inc., Ltd., LLC, PA, etc.]

[enter the contractor's complete business address]

Tax I.D. Number: [contractor's Federal Identification Number or Social Security Number]

eMaryland Marketplace Registration Number: _____

hereinafter called the "contractor" and the Clifton T. Perkins Hospital Center, operated by the Mental Hygiene Administration, a unit of the Maryland Department of Health and Mental Hygiene, hereinafter called "DHMH" or the "Department". Now, therefore, in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

This Contract shall commence on October 1, 2009, and shall expire on September 30, 2012 unless otherwise renewed at the sole discretion of the Department for the following periods:

Option#1 October 1, 2012 – September 30, 2013

Option#2 October 1, 2013 – September 31, 2014

Contract Type:

The contract resulting from this IFB shall be an Indefinite Quantity Contract with firm fixed unit prices in accordance with COMAR 21.06.03.02 & 21.06.03.06 A(2). Payment will be made for actual hours worked in accordance with this Part IV A1., and the unit prices agreed to in the contract and found on the Bid Page.

Audit of Cost or Pricing Data:

Designees of the Department of Health and Mental Hygiene, the Department of Fiscal Services, or any other State unit authorized by law may audit, during the record retention period the books and records of any contractor who has submitted cost or pricing data to the extent that the books and records relate to the cost or pricing data

Contract Audit:

Designees of the Department of Health and Mental Hygiene, the Department of Fiscal Services, or any other State unit authorized by law shall be entitled to audit the books and records of a contractor, any subcontractor, or any group of subcontractors under any negotiated contract or subcontract other than a firm fixed price contract to the extent that the books and records relate to the performance of the contract or subcontract, or if the Department has reason to believe, from an audit of a cost type contract, that costs have been inappropriately assigned to a cost type contract from a fixed price contract.

Federal Funds:

This contract does not contain federal funds.

MBE Requirements:

A. Subcontracting Participation Goal

An overall Minority Business Enterprise (MBE) subcontract participation goal of an amount not less than 3% of the total dollar value of the contract has been established for this procurement. This dollar amount includes:

- A sub-goal of 3% of the total contract dollar amount to be allocated to certified minority business enterprises classified as women-owned businesses, and/or
- A sub-goal of 3% of the total contract dollar amount to be allocated to certified minority business enterprises classified as African American-owned businesses.

By submitting a response to this solicitation, the bidder agrees that these percentage amounts of the contract will be performed by certified minority business enterprises as specified. That is, a prime contractor — including an MBE prime contractor or a prime contractor comprising a joint venture that includes MBE partner(s)— must accomplish an amount of work not less than the MBE subcontracting goal on MBE Attachment A with certified MBE subcontractors as specified. Note: It is essential that the bidder be specific as to: 1) the identity of each MBE subcontractor proposed, 2) the type of work that each subcontractor will perform under the contract and 3) the percentage of the total contract price that each subcontractor's work will comprise of the total contract price. Lack of specificity in any of these areas will cause a bid to be determined not responsive or not susceptible of being selected for award, as will submission of MBEs whose individual percentages of work, when added together, do not at least equal the percentage(s) of MBE participation identified in MBE Attachment A..

In the event that two or more offers are determined by the Procurement Officer to be equal, The Department of Health and Mental Hygiene may award a contract to the bidder whose bid reflects the highest percentage of certified MBE participation.

B. Bid/Contract Submission Requirements – MBE Participation Documentation

Bidders, including those bidders that are certified MBEs, shall:

- (a) Identify specific work categories within the scope of the procurement appropriate for subcontracting;
- (b) Solicit certified MBEs in writing at least 10 days before bids or proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;
- (c) Attempt to make personal contact with the certified MBEs solicited and to document these attempts;
- (d) Assist certified MBEs to fulfill, or to seek waiver of, bonding requirements; and
- (e) Attend prebid or other meetings the procurement agency schedules to publicize contracting opportunities to certified MBEs.

- 1.) *MBE Utilization and Fair Solicitation Affidavit* (MBE Attachment A)

The following document shall be considered as part of the contract and shall be furnished by the bidder in an envelope labeled "MBE documents". The bidder shall submit a completed *MBE Utilization and Fair Solicitation Affidavit* (see Appendix F, MBE Attachment A), whereby the bidder acknowledges the MBE participation goal and commits to make a good faith effort to achieve it. The bidder also affirms that in the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors, and that the solicitation process was conducted in such a manner so as to not otherwise place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors. Bidders must select either box 1b on the Affidavit, reflecting an intention to make a good faith effort to meet the goal, or box 1c on the Affidavit, reflecting an expectation that the goal will be partially, or not at all, met and that a waiver will be requested. This Affidavit must be submitted with the bid.

2.) *MBE Participation Schedule* (MBE Attachment B)

The following document shall be considered as part of the contract and shall be furnished by the bidder in the envelope labeled "MBE attachments". The bidder shall submit a completed *MBE Participation Schedule* (see Appendix F, MBE Attachment B) containing MDOT certified Minority Business Enterprises whereby the bidder responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation or on MBE Attachment A, by identifying the specific commitment of certified Minority Business Enterprises at the time of submission and naming each proposed certified MBE who will participate in the project and describing the contract items to be performed or furnished by each MBE. The sum of the percentages of all MBE contractors must at least be equal to the amount of MBE participation indicated on MBE Attachment A. The bidder shall specify the percentage of contract value associated with each MBE subcontractor identified on the *MBE Participation Schedule*. If Box 1b of the Affidavit (MBE Attachment A) is selected, Part 1 and Part 2 of this Attachment B must be fully completed as set forth herein. If Box 1c is selected, Part 1 of this Attachment B must be completed and Part 2 must include any MBE subcontractors that will partially complete the goal, or, if a total waiver is to be requested, the information in Part 2 may be blank.

Note, this Attachment B with specific names of each subcontractor, specific work to be accomplished by each and specific percentages of the total contract amount that each will contribute, must be submitted with the bid regardless of which option (b or c) is selected in section 1 of the Affidavit (MBE Attachment A).



READ
THIS

ATTENTION: If a bidder fails to submit properly completed MBE Attachment A and MBE Attachment B at the time of submittal of the bid as required, the Procurement Officer will deem the offer not reasonably susceptible of being selected for award of contract.

3.) Other Documentation

Within 10 working days from notification that it is the apparent successful bidder, or from the date of award, whichever is earlier, (COMAR 21.11.03.10.B), the apparent successful bidder must submit to the Department of Health and Mental Hygiene's Procurement Officer:

- a.) A completed *Outreach Efforts Compliance Statement* (see Appendix F, MBE Attachment C), signed by the bidder, which shall be considered as part of the contract.

It shall include:

- (i) A listing of specific work categories identified by the bidder in which there are subcontracting opportunities,
 - (ii) Copies of written solicitations used to solicit certified MBEs for these subcontracting opportunities,
 - (iii) A description of the bidder's attempts to personally contact the solicited MBEs, and
 - (iv) A description of bidder's efforts to fulfill or seek waiver of bonding requirements, if bonding required.
- (b.) A completed *Subcontractor Project Participation Statement* (see Appendix F, MBE Attachment D).). This statement must be consistent with the information included on the *MBE Participation Schedule (MBE Attachment B)*, **unless any changes in MBE subcontractors have been submitted to and approved by the Department.** The *Subcontractor Project Participation Statement*, which shall be considered to be part of the contract, shall be signed by both the bidder and each MBE listed and shall include:
- (i) A statement of intent to enter into a contract between the prime contractor and each subcontractor if a contract is executed between the Department of Health and Mental Hygiene and the prime contractor, and
 - (ii) The amount and type of bonds required of MBE subcontractors, if any.
- (c.) Any other documentation considered appropriate by the Department of Health and Mental Hygiene to ascertain bidder responsibility in connection with the contract MBE participation goal.

ATTENTION: If the apparent awardee fails to return each completed document within the required time, and in compliance with the requirements of this section B.2, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

4.) MBE Participation Waiver

If the apparent successful bidder is unable to achieve the contract goal for certified MBE participation, the bidder must submit instead of, or in conjunction with an *MBE Subcontractor Project Participation Statement*, a written request for a waiver with justification, to include the following:

- (a) A detailed statement of the efforts made to select portions of the proposed work to be performed by the certified MBE's in order to increase the likelihood of achieving the stated goal;
- (b) A detailed statement of the efforts made to contact and negotiate with certified MBEs including the names, addresses, dates, and telephone numbers of the certified MBEs contacted and a description of the information provided to the certified MBEs regarding plans, specifications, and anticipated time schedules for portions of the work to be performed;
- (c) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful bidder considered not to be acceptable, a detailed statement of

the reasons for this conclusion; and

- (d) In the event certified minority subcontractors are found to be unavailable, a signed and notarized *MBE Statement of Unavailability (MBE Attachment E)* must be prepared by the apparent successful bidder, including the names, addresses, dates, and telephone numbers of the certified MBEs contacted, and the reason each MBE is unavailable. A waiver of a certified MBE contract goal shall be granted only upon reasonable demonstration by the apparent successful bidder that certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the Secretary or designee determines that a waiver serves the public interest. COMAR (Code of Maryland Regulations) 21.11.03.11 governing the MBE waiver is included as *MBE Attachment F*.

C. MBE Compliance

The Department will ensure ongoing compliance with subcontracting requirements by way of periodic reviews conducted by the Department and periodic reporting by both the prime contractor and certified MBE subcontractor(s). To this end the contractor shall:

- 1.) Submit monthly to the Department as noted below a *Prime Contractor Unpaid MBE Invoice Report (MBE Attachment G)* listing any unpaid invoices, over 30 days old, received from any certified MBE contractor, the amount of each invoice and the reason payment has not been made;
- 2.) Include in its agreement with certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department, a *Subcontractor Payment Report (MBE Attachment H)* that identifies the prime contract and lists all payments received from the contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices;

Attention: One copy of each report noted above, is to be submitted monthly to the Department's Contract Monitor identified in this PART III of this solicitation and to the Office of Community Relations, 5th floor, 201 West Preston Street, Baltimore, MD 21201 (410) 767-6600.

- 3.) Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of the work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the contractor and furnished to the Procurement Officer on request;
- 4.) Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for Department inspection for a period of three years after final completion of the contract; and
- 5.) At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

Upon determining the contractor's non-compliance, the Department shall notify the contractor in writing of its findings and shall specify what corrective actions are required. The contractor shall be required to initiate the corrective actions within 10 days and complete them within the time specified by the Department. If the Department determines that substantial noncompliance with MBE contract provisions exists and that the prime contractor refuses or fails to take corrective action required by the Department, then the following sanctions may be invoked:

- 1.) Withholding payment;
 - 2.) Termination of the contract;
 - 3.) Suspension of the right of the contractor to participate in any future contracts;
 - 4.) Referral to the Office of the Attorney General for appropriate action;
 - 5.) Initiation of any other specific remedy identified by the Contract; and
 - 6.) Any other compliance mechanism authorized in COMAR 21.11.03. or available at law.
- D. If the Department determines that the contractor has not complied with the certified MBE subcontractor participation goal, and has not obtained a waiver (See Appendix _____, MBE Attachment F), the Procurement Officer, upon review by the Office of the Attorney General, may determine the contractor to be in breach of contract. The reasons for this action shall be specified in writing and mailed or delivered to the contractor.
- E. All questions related to MBE certification must be directed to:

Maryland Department of Transportation
Office of Minority Business Enterprise/Equal Opportunity
P.O. Box 8755
BWI Airport
Baltimore, Maryland 21240
Telephone: (410) 865-1269

Contract Monitors:

The CONTRACT MONITOR for the Department is:

Peggy Takovick
Name (Typed)

RN
Title (Typed)

8450 Dorsey Run Road, Jessup, Maryland 20794
Business Address (Typed)

(410) 724-3186
Business Telephone Number (Typed)

The Department's Contract Monitor is the primary point of contact for the Department for matters relating to this contract. The contractor shall contact this person immediately if the contractor is unable to fulfill any of the requirements of this contract or has any questions regarding the interpretation of the provisions of the contract.

The CONTRACT MONITOR for the contractor is:

Name (Typed)

Title (Typed)

Business Address (Typed)

Business Telephone Number (Typed)

The contractor's Contract Monitor is the primary point of contact for the contractor for matters relating to this contract. The contractor's Contract Monitor shall contact the Department's Contract Monitor immediately if the contractor is unable to fulfill any of the requirements of the contract or if there are any questions regarding the interpretation of the provisions of the contract.

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PART V -- BILLING AND PAYMENT PROVISIONS

The contractor agrees to:

- A. Bill the Department by the last day of each month in triplicate, certifying thereto that the work and services have been performed, that payment for said work has not been received, and that the amount specified is due and owing.
- B. All invoices must (at a minimum) be signed and dated, and include the following:
 - a. The contractor's name and mailing address,
 - b. The contractor's Federal Tax Identification or Social Security Number,
 - c. The State assigned Contract Control Number OPASS 10-10132,
 - d. The State assigned ADPICS number _____,
 - e. The goods or services provided,
 - f. The time period covered by the invoice,
 - g. The amount of requested payment, and
 - h. * _____,

C. Prompt Pay Requirements

This procurement and the contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs and dated August 1, 2008. Promulgated pursuant to Sections 11-201, 13-205(a), and Title 14, Subtitle 3 of the State Finance and Procurement Article (SFP), and Code of Maryland Regulations (COMAR) 21.01.01.03 and 21.11.03.01 et seq., the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The successful Bidder who is awarded a contract must comply with the prompt payment requirements outlined in the Contract, Section VI Item 41.

D. Address all invoices **in triplicate** to Accounts Payable at:

Clifton T. Perkins Hospital Center
8450 Dorsey Run Road
Jessup, Maryland 20794

If identified below, a copy of all invoices (which must be marked "copy") shall also be sent to:

(NAME)

(TITLE)

(STREET AND ROOM ADDRESS)

(CITY, STATE, AND ZIP CODE)

B. The State agrees to pay the contractor:

- 1. Monthly for actual services rendered the previous month in accordance with the number of

- services times the fixed unit price stated on the bid page for the appropriate contract period.
2. Electronic Funds Transfer (EFT) will be used to pay the contractor for the contract resulting from this solicitation and any other State payments unless the State Comptroller's Office grants the contractor an exemption. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for exemption.
 3. Funding for the contract resulting from this Invitation For Bids is dependent upon appropriations from the Maryland General Assembly, see Part VI: General Contract Terms And Conditions.
 5. Reduction/Withholding of Payment

The Department reserves the right to reduce or withhold contract payment in the event the contractor does not provide the Department with all required deliverables within the time frame specified in the contract or in the event that the contractor otherwise materially breaches the terms and conditions of the contract until such time as the contractor brings itself into full compliance with the contract. Any such action on the part of the Department, or dispute of such action by the contractor, shall be in accordance with the provisions of Md. Code Ann. St. Fin. & Proc., 15-215 through 15-223 and with COMAR 21.10.02.

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VI: GENERAL CONTRACT TERMS AND CONDITIONS

In accordance with the Annotated Code of Maryland, State Finance and Procurement Article, and the Code of Maryland Regulations, COMAR Title 21, the following clauses are hereby incorporated as a part of this solicitation and the contract awarded as a result of this solicitation.

1. FINANCIAL DISCLOSURE

The contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

2. PUBLIC INFORMATION ACT NOTICE

Bidders should give specific attention to the identification of those portions of their bids that they deem to be confidential proprietary information or trade secrets and provide any justification of why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, Maryland Code Annotated, State Government Article, Title 10, Subtitle 6. Justification in support of such non-disclosure must accompany the bid. Upon request for information from a third party, the Procurement Officer is required to make an independent determination as to whether the information may or may not be disclosed. A blanket statement by a bidder that their entire bid is confidential or proprietary is unacceptable.

3. APPROVALS

This contract may be subject to approval by the Office of the Attorney General, the Maryland Department of Budget and Management, and the Board of Public Works.

4. MULTI YEAR CONTRACTS

If the General Assembly fails to appropriate funds, or if funds are not otherwise made available for continued performance of the contract for any fiscal period of the contract succeeding the first fiscal period, the contract shall be automatically cancelled as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, this will not affect either the Department's rights or the contractor's rights under any termination clause in the contract. The effect of termination of the contract will be to discharge both the contractor and the Department from future performance of the contract, but not from their obligation existing at the time of termination. The contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the services delivered under the contract. The State shall notify the contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

5. MODIFICATION OF CONTRACT

This contract may be amended as the Procurement Officer and the contractor mutually agree in writing (subject to any necessary approvals of the Office of the Attorney General, Department of Budget and Management and, in certain cases, the Board of Public Works). No amendment may change significantly the scope of the original solicitation or, if none, the original contract. An amendment to this contract does not alter the other terms of the contract, except to the extent necessary to make them consistent with the amendment. This contract may not be amended to provide salary and wage increases for the contractor's employees with the intention of making these increases consistent with salary and wage increases given to employees of the State except as provided in the Maryland Code Annotated, Health-General Article, §10-905.

6. NON-HIRING OF STATE EMPLOYEES

No official or employee of the State of Maryland, as defined under State Government Article, §15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this contract, shall, during the pendency and term of this contract and while serving as an official or employee of the State, become or be an employee of the contractor or any entity that is a subcontractor on this contract.

7. CONFLICT OF INTEREST LAW

It is unlawful for any State officer, employee, or agent to participate personally in his official capacity through decision, approval or disapproval, recommendation, advice, or investigation in any contract or other matter in which he, his spouse, parent, minor child, brother, or sister has a financial interest or to which any firm, corporation, association, or other organization in which he has a financial interest or in which he is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, is a party, unless such officer, employee, or agent has previously complied with the provisions of the Maryland Code Annotated, State Government Article, §15-501 et seq.

8. DISPUTES

This contract shall be subject to the provisions of the Maryland Code Annotated, State Finance and Procurement Article, Title 15, Subtitle 2 and COMAR 21.10. In accordance with the requirement of COMAR 21.10.04.02 the contractor must file a written notice of a claim with the procurement officer within 30 days after the basis for the claim is known or should have been known, whichever is earlier, but no later than the date final payment is made under the contract. Pending a resolution of a claim, the contractor shall proceed diligently with the performance of the contract in accordance with the Procurement Officer's decision.

9. MARYLAND LAW PREVAILS

The Provisions of this contract shall be governed by the laws of the State of Maryland.

10. NON-DISCRIMINATION IN EMPLOYMENT

The contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any sub-contract except a sub-contract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

11. CONTINGENT FEE PROHIBITION

The contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the contractor to solicit or secure this agreement; and that he has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or other consideration contingent on the making of this agreement.

12. TERMINATION FOR DEFAULT

The rights and remedies of the State under the contract are cumulative. The enforcement of any right or election of any remedy by the State provided by the contract for any breach of the contract will not preclude the State from enforcing other rights and availing itself of other remedies available under the contract for the same breach or any other breach of the contract.

If the contractor fails to properly perform its obligations under the contract, the State may correct such deficiencies at the contractor's expense.

If the Contractor fails to fulfill its obligations under this contract properly and on time, or otherwise violates any provision of the Contract, the Department may terminate the contract by written notice to the contractor. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished supplies and services provided by the contractor shall, at the Department's option, become the State's property.

The Department shall pay the contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the contractor's breach. If the damages are more than the compensation payable to the contractor, the contractor will remain liable after termination and the Department can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11.B.

13. TERMINATION FOR CONVENIENCE

The performance of work under this contract may be terminated by the Department in accordance with this clause in whole, or from time to time in part, whenever the Procurement Officer shall determine that such termination is in the best interest of the State. The Department will pay all reasonable costs associated with this contract that the contractor has incurred up to the date of termination and all reasonable costs associated with termination of the contract. However, the contractor shall not be reimbursed for any

anticipatory profits, which have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12.A(2).

14. TAX EXEMPTION

The State is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. Exemption certificates shall be completed upon request. Where a contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the contractor shall pay the Maryland sales tax and the exemption does not apply.

15. ARREARAGES

By submitting a response to this solicitation, a vendor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified; and
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract if selected for contract award.

16. NON-ASSIGNMENT

The contractor may not, during the term of this contract or any renewals or extensions of the contract, assign or sub-contract all or any part of the contract without the prior written consent of the Procurement Officer. However, the contractor may assign monies receivable under a contract after due notice to the Department's contract monitor.

17. DOCUMENTS RETENTION AND INSPECTION CLAUSE - OTHER THAN RESIDENTIAL HEALTH CARE FACILITIES CONTRACTS

The contractor and sub-contractors shall retain and maintain all records and other documents relating to this contract for a period of five (5) years from the date of final payment by the State hereunder or any applicable statute of limitation, whichever is longer, and shall make the documents available for inspection and audit by authorized representatives of the State, including the procurement officer or designee, at all reasonable times.

18. DOCUMENTS RETENTION AND INSPECTION CLAUSE - RESIDENTIAL HEALTH CARE FACILITIES CONTRACTS

If the contractor supplies services to a State residential health care facility under the Mental Hygiene Administration, the Family Health Administration, the Alcohol and Drug Abuse Administration, or the Developmental Disabilities Administration, the contractor agrees, in addition to the requirements of Clause 17, above:

- (1) That pursuant to 42 Code of Federal Regulations (C.F.R.) Part 420, the

Secretary of Health and Human Services, and the Comptroller General of the United States, or their duly authorized representatives, shall be granted access to the contractor's contract, books, documents and records necessary to verify the cost of the services provided under this contract, until the expiration of four years after the services are furnished under this contract; and

- (2) That similar access will be allowed to the books, documents and records of any organization related to the contractor or controlled by the contractor (as those terms are defined in 42 C.F.R. (420.301) if that organization is sub-contracting to provide services with a value of \$10,000 or more in a twelve-month period to be reimbursed through funds provided by this contract.

19. INDEMNITY (HOLD HARMLESS) CLAUSE

A. Definitions.

For the purpose of this clause only, the following terms have the meanings indicated:

- (1) "Contractor" means the contractor, its officers, employees, agents, and representatives.
- (2) "State" means the State, its departments, agencies, officials, officers, and employees.
- (3) "Sub-contractor" means any sub-contractor of the contractor, its officers, employees, agents, and representatives.

B. Indemnification by contractors.

The contractor shall indemnify and hold the State of Maryland harmless for any cost, expense, loss, liability, fine, or penalty of any nature or character whatsoever that the State may incur as a result of a failure of the contractor, or its subcontractor(s), to comply with the terms of this agreement (or any part thereof), negligence of the contractor, injury or death to any person, damage to property, nuisance (public or private), or trespass arising out of or attributable to the performance of work by the contractor or its subcontractor(s), except to the extent caused by the negligent or willful act or omission of the State or its employees, agents, or independent contractors, other than the contractor, or its subcontractor(s).

The contractor further agrees to indemnify the State for damage, loss, or destruction of State property in the contractor's care, custody, and/or control during the term of this contract due to the action or inaction of the contractor or its subcontractor(s).

C. Liability of State.

State law prohibits the State from incurring, by way of an indemnity agreement, a potentially unlimited liability when no funds have been appropriated to fund the

liability, the risk is uninsured, and the indemnity agreement is not conditioned upon the future appropriation of funds to satisfy the liability. Notwithstanding any other provisions of the contract documents, the State shall have no liability to the contractor under the circumstances described in this paragraph

The State has no obligation to provide legal counsel or legal defense to the contractor or its sub-contractors in the event that a suit, claim or action of any character is brought by any person or persons not party to the contract against the contractor or its sub-contractors as a result of or relating to the contractor's obligations under this contract.

The State has no obligation for the payment of any judgments or the settlement of any claims made against the contractor or its sub-contractors as a result of or relating to the contractor's obligations under this contract.

D. Notice of and Cooperation in Litigation.

The contractor will immediately give notice to the Procurement Officer of any claim or suit made or filed against the contractor or its sub-contractors regarding any matter resulting from or relating to the contractor's obligations under this contract, and will cooperate, assist and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the contractor's obligations under this contract.

20. COST AND PRICE CERTIFICATION

A. The contractor shall submit cost or price information and shall certify that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

(1) A negotiated contract if the total contract price is expected to exceed \$100,000, or a smaller amount set by the Procurement Officer; or

(2) A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the Procurement Officer.

B. The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

21. PAYMENT OF STATE OBLIGATIONS AND INTEREST

A. Payments to the contractor pursuant to this Contract shall be made no later than 30 days after the State's receipt of a proper invoice from the contractor. Charges for late payment of invoices, other than as prescribed by the Maryland Code Annotated, State Finance and Procurement Article, § 15-104 et seq. or by the Public Service Commission of Maryland, with respect to regulated public utilities, as applicable, are prohibited.

- B. The Maryland Code Annotated, State Finance and Procurement Article, §15-104 et seq. provides that the State shall remit payment to the contractor within forty-five (45) days after receipt of a proper invoice pursuant to any authorized, written procurement contract. Except as provided in State Finance and Procurement Article, §15-105, the State's failure to remit payment within this period may entitle the contractor to interest at the rate specified in State Finance and Procurement Article, §15-104, for the period that begins thirty one (31) calendar days after the receipt date. This amount, if paid, shall be in lieu of payment of any other late charge(s) by the State.
- C. For purposes of this contract, an amount will not be deemed "due and payable" and interest payments will not be authorized for late payments unless the following conditions have been met:
- (1) The amount invoiced is consistent with the amount agreed upon by the parties to the contract.
 - (2) The goods or services have been received by the State and the quantity received agrees with the quantity ordered.
 - (3) The goods or services meet the qualitative requirements of the contract and have been accepted by the State.
 - (4) The proper invoice has been received by the party or unit of government specified in the contract.
 - (5) The invoice is not in dispute.
 - (6) If the contract provides for progress payments, the proper invoice for the progress payment has been submitted pursuant to the schedule contained in the contract.
 - (7) If the contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have been met.
- D. In order to receive payment of interest, the contractor must submit a proper invoice for accrued interest within 30 calendar days after the payment date (i.e., the date of the check from the State Treasurer that pays the contractor for the goods supplied or the service rendered) of the amount on which the interest accrued. Interest may not be claimed (1) if a claim has been filed under the Maryland Code Annotated, State Finance and Procurement Article, §15-201 through 223, (2) if the accrual period is more than one year following the 31st calendar day after the date that a proper invoice is received by a State agency, or (3) on an amount representing unpaid interest.

22. INSPECTION OF PREMISES

The contractor agrees to permit authorized officials of the State to inspect, at reasonable

times, its plant, place of business, job site, or any other location that is related to the performance of the contract.

23. INCORPORATION BY REFERENCE

All terms and conditions under the solicitation, and any amendments thereto, are made a part of this Contract. In the event of contract award, the contract shall consist of the INVITATION FOR BIDS, including all addenda, exhibits, and attachments. This shall constitute the entire agreement between the contracting parties, superseding all representations, commitments, conditions, or agreements that may have been made orally or in writing prior to the execution of the contract.

24. SPECIFICATIONS

All materials, equipment, supplies, or services shall conform to federal and State laws and regulations and to the specifications contained in the solicitation.

25. DELIVERY AND ACCEPTANCE

Delivery shall be made in accordance with the solicitation specifications. The State, at its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the contractor's control. The State unilaterally may order, in writing the suspension, delay, or interruption of performance hereunder. The State reserves the right to test any materials, equipment, supplies, or services delivered to determine if the specifications have been met. The materials listed in the bid or proposal shall be delivered FOB the point or points specified prior to or on the date specified in the bid or proposal. Any material that is defective or fails to meet the terms of the solicitation specifications shall be rejected. Rejected materials shall be promptly replaced. The State reserves the right to purchase replacement materials in the open market. Contractors failing to promptly replace materials lawfully rejected shall be liable for any excess price paid for the replacement, plus applicable expenses, if any.

26. ANTI-BRIBERY

Potential contractors and sub-contractors are required to be aware of the Maryland Code Annotated, State Finance and Procurement Article, §16-202, that requires that any person convicted of bribery, attempted bribery, or conspiracy to bribe committed in the obtaining of a contract from the State or any of its subdivisions, shall be subject to disqualification pursuant to the Maryland Code Annotated, State Finance and Procurement Article, §16-202, from entering into a contract with the State, or any county or other subdivision of the State.

27. REGISTRATION

Pursuant to the Maryland Code Annotated, Corporations and Associations Article, §7-201, et seq. corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, Maryland 21201, before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation. The contractor shall be responsible for ensuring that all subcontractors meet these requirements and further that the contractor and all

subcontractors meet these requirements for the duration of the contract.

Any potential bidder who has questions concerning this requirement is advised to contact the Department of Assessments and Taxation at (410) 767-1330. It is strongly recommended that potential bidders be completely registered prior to the due date for receipt of bids. Failure to register may result in the rejection of a bidder's bid.

28. EPA COMPLIANCE

Materials, supplies, equipment, or services shall comply in all respects with the Federal Noise Control Act of 1972, where applicable.

29. OCCUPATIONAL SAFETY AND HEALTH ACT (O.S.H.A.)

All materials, supplies, equipment, or services supplied as a result of this Contract shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act standards.

30. PATENT, COPYRIGHTS, TRADE SECRETS, AND INDEMNIFICATION

If the contractor furnishes any design, device, material, process, or other item which is covered by a patent or copyright, or which is proprietary to, or a trade secret of another, it is solely the responsibility of the contractor to obtain the necessary permission or license to use such item or items. The contractor hereby grants to the Department a royalty-free, nonexclusive, and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so, all data now and hereafter covered by copyright, and warrants that it has the authority to do this.

If any products furnished by the contractor become, or in the contractor's opinion are likely to become, the subject of a claim of infringement, the contractor will, at its option: a) procure for the State the right to continue using the applicable item, b) replace the product with a non-infringing product substantially complying with the item's specifications, or c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

If the contractor obtains or uses for purposes of the contract (or any subcontracts) any design, device, material, process, supplies, equipment, text, instructional material, services or other work, the contractor shall indemnify the State, DHMH, their officials, agents, and employees with respect to any claim, action, cost, or judgment for patent, trademark, or copyright infringement, arising out of the possession or use of any design, device, material, process, supplies, equipment, text, instructional material, services or other work covered by this contract.

31. STATE CONTRACT PREVAILS

Whenever a vendor/contractor's standard contract is used along with this State's contract, this State's Contract shall prevail in the event of conflict between any provision of the two contracts when the State determines it to be in its best interest.

32. CHANGE ORDERS AND SUSPENSION OF WORK

Both parties agree that pursuant to the Maryland Code Annotated, State Finance and Procurement Article, §13-218, 1) the State has the unilateral right to order in writing changes in the work within the scope of the contract; and 2) the procurement officer unilaterally may order the contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as the procurement officer may determine to be appropriate for the convenience of the State.

33. RIGHTS IN DATA

Work produced as a result of this solicitation is and shall remain the sole property of the Department of Health & Mental Hygiene (DHMH).

The contractor agrees that all documents, equipment, and materials, including but not limited to, reports, drawings, studies, specifications, estimates, texts, computer software including software documentation and related materials, maps, photographs, designs, graphics, mechanicals, art work, computations and data prepared by or for, or purchased by or for, the contractor because of this contract shall, at any time during the term of the contract, be available to DHMH and shall become and remain the exclusive property of DHMH during and upon termination or completion of the services required to be performed under this contract.

DHMH shall have the right to use same without restriction and without compensation to the contractor other than that provided in this contract.

The contractor agrees that, at all times during the term of this contract and thereafter, the works created and services performed shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created under this contract are not works for hire for DHMH, the contractor hereby transfers and assigns to DHMH all of its rights, title and interest (including all intellectual property rights) to all such products created under this contract, and will cooperate reasonably with DHMH in effectuating and registering any necessary assignments.

The contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Vendor with respect to all data delivered under this agreement.

The contractor shall not affix any restrictive markings upon any data and if such markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore such markings.

34. DELAYS AND EXTENSIONS OF TIME

The contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable cause beyond the control and without the fault or negligence of the contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its

sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the contractor or the subcontractors or suppliers.

35. PRE-EXISTING REGULATIONS

In accordance with the provisions of the Maryland Code Annotated, State Finance and Procurement Article, §11-206, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR Title 21) in effect on the date of execution of this Contract are applicable to this Contract.

36. POLITICAL CONTRIBUTION DISCLOSURE

The contractor shall comply with Maryland Code Annotated, Election Law Article, §§14-101 through 14-108, which requires that every person that enters into contracts, leases or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

37. COMPLIANCE WITH LAWS

By submitting a bid in response to this solicitation the vendor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified.
- B. It shall comply with all Federal, state and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- C. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

38. PROHIBITION OF SEXUAL HARASSMENT

The contractor shall operate under this agreement so that no employee or client is subjected to sexual harassment in the workplace or in locations and situations otherwise associated with the performance of duties per the terms of this contract. Further, except in sub-contracts for standard commercial supplies or raw materials, the contractor shall

include this clause, or a similar clause approved by DHMH, in all sub-contracts. The contractor has primary responsibility for enforcement of these provisions and for securing and maintaining the sub-contractor's full compliance with both the letter and spirit of this clause.

39. COMMERCIAL NONDISCRIMINATION

- A. As a condition of entering into this Agreement, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- B. As a condition of entering into this Agreement, upon the Maryland Human Relations Commission's request, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the state of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that is requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

40. LIVING WAGE REQUIREMENTS

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement (SFP) Article, Annotated Code of Maryland. Additional information regarding the State's wage requirement is contained in this solicitation (see Appendix D entitled Living Wage Requirements for Service Contracts). If the Bidder fails to submit and complete the required documentation under State law, the

State may determine a Bidder to be not responsible.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least \$11.72 per hour, if State contract services valued at 50% or more of the total value of the contract are performed in the Tier 1 Area. If State contract services valued at 50% or more of the total value are performed in the Tier 2 Area, a Bidder shall pay each covered employee at least \$8.81 per hour. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located.

The contract resulting from this solicitation has been deemed to be a Tier 1 contract.

41. **PROMPT PAYMENT DIRECTIVE** – In accordance with the Directive by the Governor's Office of Minority Affairs dated August 1, 2008:

- A. If a contractor withholds payment of an undisputed amount to its subcontractor, the Agency, at its option and in its sole discretion, may take one or more of the following actions:
 - (1) Not process further payments to the contractor until payment to the subcontractor is verified
 - (2) Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
 - (3) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
 - (4) Place a payment for an undisputed amount in an interest-bearing escrow account; or
 - (5) Take other or further actions as appropriate to resolve the withheld payment.
- B. An "undisputed amount" means an amount owed by a contractor to a subcontractor for which there is no good faith dispute, including any retainage withheld, and includes an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- C. An act, failure to act, or decision of a procurement officer or a representative of the Agency, concerning a withheld payment between a contractor and subcontractor under this policy directive, may not:
 - (1) Affect the rights of the contracting parties under any other provision of law;
 - (2) Be used as evidence on the merits of a dispute between the Agency and the contractor in any other proceeding; or
 - (3) Result in liability against or prejudice the rights of the Agency.

- D. The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.
- E. To ensure compliance with certified MBE subcontract participation goals, the Agency may, consistent with COMAR 21.11.03.13, take the following measures:
 - (1) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
 - (2) This verification may include, as appropriate:
 - a. Inspecting any relevant records of the contractor;
 - b. Inspecting the jobsite; and
 - c. Interviewing subcontractors and workers.
 - d. Verification shall include a review of:
 - 1. The contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and
 - 2. The monthly report of each certified MBE subcontractor, which lists payments received from the contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.
 - (3) If the Agency determines that a contractor is in noncompliance with certified MBE participation goals, then the Agency will notify the contractor in writing of its findings, and will require the contractor to take appropriate corrective action.
 - a. Corrective action may include, but is not limited to, requiring the contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
 - (4) If the Agency determines that a contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Agency requires, then the Agency may:
 - a. Terminate the contract;
 - b. Refer the matter to the Office of the Attorney General for appropriate action; or
 - c. Initiate any other specific remedy identified by the contract, including the contractual remedies required by this Directive regarding the payment of undisputed amounts.
 - (5) Upon completion of the contract, but before final payment or release of retainage or both, the contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

42. FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS) EXCLUSION REQUIREMENTS

The contractor agrees that it will comply with federal provisions (pursuant to §§1128 and 1156 of the Social Security Act and 42 CFR 1001) that prohibit payments under certain federal health care programs to any individual or entity that is on the List of Excluded Individuals/Entities maintained by DHHS. By executing this contract, the contractor

affirmatively declares that neither it nor any employee is, to the best of its knowledge, subject to such exclusion. The contractor agrees, further, during the term of this contract, to check the List of Excluded Individuals/Entities prior to hiring or assigning individuals to work on this contract, and to notify the Office of Inspector General (OIG) immediately of any identification of the contractor or an individual employee as excluded, and of any DHHS action or proposed action to exclude the contractor or any contractor employee.

43. **CONFIDENTIALITY**

The contractor agrees to keep information obtained in the course of this contract confidential in compliance. The contractor agrees further to comply with any applicable State and federal confidentiality requirements regarding collection, maintenance and use of health and financial information. This includes, where appropriate, the federal Health Insurance Portability and Accountability Act (HIPAA, 42 U.S.C. § 1320d et seq. and implementing regulations at 45 CFR Parts 160 and 164) and the Maryland Confidentiality of Medical Records Act (Md. Code Ann. Health-General §§4-301 et seq., MCMRA). This obligation includes providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the contract. This obligation further includes restricting use and disclosure of the records, generally providing safeguards against misuse of information, keeping a record of any disclosures of information, providing all necessary procedural and legal protection for any disclosures of information, promptly responding to any requests by the Agency for information about its privacy practices in general or with respect to a particular individual, modifying such information as may be required by good professional practice as authorized by law, and otherwise providing good information management practices regarding all health and financial information.

44. The contractor shall obtain from each prospective employee a signed statement permitting a criminal background check. The contractor shall secure at his own expense and shall provide the Center's Contract Monitor with a Maryland State Police and/or FBI background check on all new employees prior to assignment at the Center. The contractor may not hire an employee who has a criminal record unless prior written approval is obtained from the Center.

PART VII: INCORPORATION BY REFERENCE

The documents listed below are hereby incorporated into this contract and made an integral part thereof. (Type "NONE" if none)

TITLE	Number of Pages
Appendices: A, B,C,D,E, F, G	24

(The Remainder of This Page Is Blank)

PART VIII: SIGNATURE PAGE

Specifications and terms and conditions of this solicitation and the contract to be awarded as a result of this solicitation, including any addenda identified in PART VII, are attached hereto consisting of 51 pages (Parts I through VIII, including the Bid Page, which is page numbers 14-23), dated June 16, 2009 and titled On-site Mobile Imaging Services at Clifton T. Perkins.

In compliance with this above Solicitation for Bids, the Bidder agrees, if this bid is accepted within 90 days from the date of the bid opening, to furnish the item(s) or service(s) for which prices are quoted. Upon acceptance of this bid by the Secretary of Health and Mental Hygiene or authorized representative, the bidder (contractor) agrees to perform under the specifications and provisions included herein and attached hereto for the consideration specified herein.

SIGNATURE OF AUTHORIZED SIGNATORY OF BIDDER

(Sign in ink)

By: _____
(Signature)

Name (Typed) Date

Title (Typed)

ACCEPTANCE BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Signatory for the Department shall be the Secretary, DHMH or designee

By: _____
(Signature)

Name (Typed) Date

Title (Typed)

Approved as to form and Legal Sufficiency
This _____ day of _____

By: _____
Assistant Attorney General

Name (Typed)

BID/PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title)_____ and the duly authorized representative of (business)_____ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in “discrimination” as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. “Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendors, supplier’s or commercial customer’s employees or owners. “Discrimination” also includes retaliating against any person or other entity for reporting any incident of “discrimination”. Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the state of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken.

Bidder agrees to comply in all respects with the State’s Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in §16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business’s contracting activities including obtaining or performing contracts with public bodies, has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in

violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

- (1) Been convicted under state or federal statute of:
 - (a) a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961, et seq., or the Mail Fraud Act, 18 U.S.C. §1341, et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of the §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (1) through (5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or

- (9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B — C and subsections (1) through (8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension):

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to §16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or bidder or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of §13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101—14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State

Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

K. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
 - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
 - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
 - (c) Prohibit its employees from working under the influence of drugs or alcohol;
 - (d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
 - (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
 - (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
 - (i) The dangers of drug and alcohol abuse in the workplace;
 - (ii) The business' policy of maintaining a drug and alcohol free workplace;
 - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees who

abuse drugs and alcohol in the workplace;

- (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §K(2)(b), above;
 - (h) Notify its employees in the statement required by §K(2)(b), above, that as a condition of continued employment on the contract, the employee shall:
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
 - (i) Notify the procurement officer within 10 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
 - (j) Within 30 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
 - (i) Take appropriate personnel action against an employee, up to and including termination; or
 - (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
 - (k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §K(2)(a)—(j), above.
- (3) If the business is an individual, the individual shall certify and agree as set forth in §K(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.
- (4) I acknowledge and agree that:
- (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
 - (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
 - (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

- (1) The business named above is a (domestic ____) (foreign ____) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is: Name: _____

Address: _____

(If not applicable, so state).

- (2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

M. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

N. Repealed.

O. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal

shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____ By: _____

(Authorized Representative and Affiant)

Revised March 30, 2007

CONTRACT AFFIDAVITA. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the _____ and the duly authorized representative
of (title)

(name of business)

and that I possess the legal authority to make this Affidavit on behalf of my self and the business for which I am acting.

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

1. The business named above is a (domestic _____) (foreign _____) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: _____

Address: _____

2. Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

C. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgments contained in that certain Bid/Proposal Affidavit dated _____, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY
THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST
OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____ By: _____
(Authorized Representative and Affiant)

MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Standard Addendum for the Means of Delivering Bids or Proposals

Any bid or proposal due to any unit of the Maryland Department of Health and Mental Hygiene shall be delivered/transmitted as described in this addendum. The failure of any bidder or offeror to follow these instructions may result in its bid or offer not being received by the due time and date, which will result in the rejection of that bid or offer.

There are three acceptable means of delivering/transmitting a bid or offer:

1. The United States Postal Service;
2. Hand delivery by the bidder/offeror itself; and
3. Hand delivery by a commercial delivery/courier company acting as an agent of the bidder/offeror.

The detailed manner for the utilization of each of these methods is described below:

For U. S. Postal Service Deliveries

For U.S. Postal Service deliveries, any bid or proposal that has been received at the appropriate mail room or typical place of mail receipt for the respective procuring unit by the time and date listed in the RFP or specifications will be deemed to be timely.

If a vendor chooses to use the United States Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only.

These are the only forms of U.S. Postal Delivery for which both the date and time of receipt can be verified by the Department. A vendor using first class mail will, therefore, not be able to prove a timely delivery at the mail room. It may take several days for an item sent by first class mail to make its way by normal internal mail pickup to a procuring unit's bid box.

For Hand Deliveries by Vendors and Deliveries
By Commercial Courier Services

These deliveries must be delivered directly to the room or location specified in the RFP or solicitation and placed in the designated bid box. A bidder who uses a commercial courier service must take appropriate action to ensure that the courier actually delivers the bid/offer to the specified location and not to the Department's mailroom or loading dock. The bid/offer will not be deemed to have been received until it is placed in the designated bid box.

For any type of hand delivery, the vendor or its commercial courier services should request a signed receipt from a procuring unit employee which notes the title of the procurement, the name of the vendor, and the time and date of receipt at the bid box.

Identifying Information

All envelopes containing bids or offers, no matter how transmitted, must contain this information prominently displayed:

- either "Sealed Bid" or "Sealed Proposal," as appropriate;
- the exact title of the bid or proposal as noted in the RFP or specifications;
- the due time and date; and
- the name of the bidder/offeror.

Questions on any of these requirements should be directed to the Department contact person identified in the RFP or solicitation or to the Office of Procurement and Support Services at (410) 767-5816.

APPENDIX D

Living Wage Requirements for Service Contracts

- A. This contract is subject to the Living Wage requirements under Title 18, State Finance and Procurement Article, Annotated Code of Maryland and the regulations proposed by the Commissioner of Labor and Industry. The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract. The Living Wage Law does not apply to an employee who works less than thirteen consecutive weeks and full-time on a contract subject to the Living Wage.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
 - (A) has a State contract for services valued at less than \$100,000, or
 - (B) employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
 - (2) A Subcontractor who:
 - (A) performs work on a State contract for services valued at less than \$100,000,
 - (B) employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
 - (C) performs work for a contractor not covered by the Living Wage Law as defined in B(1)(B) above, or B (3) or C below.
 - (3) Contracts involving services needed for the following:
 - (A) Services with a Public Service Company;
 - (B) Services with a nonprofit organization;
 - (C) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or

(D) Services between a Unit and a County or Baltimore City.

- C. If the Unit responsible for the State contract determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a contract, pay an employee through a third party, or treat an employee as an independent contractor or assign work to employees to avoid the imposition of any of the requirements of Title 18, State Finance and Procurement, Annotated Code of Maryland.
- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner of Labor and Industry shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's Website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in §18-103(c), State Finance and Procurement Article, Annotated Code of Maryland, shall not lower an employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner of Labor and Industry.
- H. A Contractor/Subcontractor may reduce the wage rates paid under §18-103(a), State Finance and Procurement, Annotated Code of Maryland, by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland.
- I. Under Title 18, State and Finance Procurement Article, Annotated Code of Maryland, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each

employee paid less than the Living Wage.

- J. Information pertaining to reporting obligations may be found by going to the DLLR website <http://dllr.state.md.us> and clicking on Living Wage.

Affidavit of Agreement

Maryland Living Wage Requirements-Service Contracts

Contract No. _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland's Living Wage Law for the following reasons (check all that apply):

- _____ Bidder/Offeror is a nonprofit organization
- _____ Bidder/Offeror is a public service company
- _____ Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- _____ Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

If the Contract is a Living Wage Contract

A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms our commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

Affidavit of Agreement
Maryland Living Wage Requirements-Service Contracts

B. _____ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply):

- _____ The employee(s) proposed to work on the contract will spend less than one-half of the employee's time during any work week on the contract
- _____ The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
- _____ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized

Representative: _____

Signature of Authorized Representative

Date

Title

Witness Name (Typed or Printed)

Witness Signature

Date

**State of Maryland
Comptroller of Maryland**

Vendor Electronic Funds Transfer (EFT) Registration Request Form

Date of request _____

Business identification information (Address to be used in case of default to check):

Business name _____

Address line 1 _____

Address line 2 _____

City _____ State _____

Zip code:

--	--	--	--	--	--

--	--	--	--	--	--

Business taxpayer identification number:

Federal Employer Identification Number:

--	--

--	--	--	--	--	--	--	--

(or) Social Security Number:

--	--	--

--	--

--	--	--	--	--

Business contact name, title, and phone number including area code. (And address if different from above).

Financial institution information:

Name and address _____

Contact name and phone number (include area code) _____

ABA number:

--	--	--	--	--	--	--	--	--	--

Account number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Account type: ☐ Checking ☐ Money Market

A VOIDED CHECK from the bank account must be attached.

Transaction requested:

1. ___ Initiate all disbursements via EFT to the above account.
2. ___ Discontinue disbursements via EFT, effective _____
3. ___ Change the bank account to above information – a copy of the approved
Registration Form for the previous bank account must be attached.

I am authorized by * _____ (hereinafter Company) to make the representations contained in this paragraph. Company authorizes the Comptroller and the Treasurer of Maryland to register it for electronic funds transfer (EFT) using the information contained in this registration form. Company agrees to receive all funds from the State of Maryland by electronic funds transfer according to the terms of the EFT program. Company agrees to return to the State of Maryland any EFT payment incorrectly disbursed by the State of Maryland to the Company's account. Company agrees to hold harmless the State of Maryland and its agencies and departments for any delays or errors caused by inaccurate or outdated registration information or by the financial institution listed above.

*Name of registering business entity

Signature of company treasurer, controller, or chief financial officer and date

Completed by GAD/STO

Date Received _____

GAD registration information verified _____ Date to STO _____

STO registration information verified _____ Date to GAD _____

R*STARS Vendor No. and Mail Code Assigned:

_____/_____/_____

-

State Treasurer's Office approval date

General Accounting Division approval date

To Requestor:

Please retain a copy of this form for your records. Please allow approximately 30 days from the date of your request for the Comptroller's and Treasurer's Offices to process your request.

Failure to maintain current information with this office could result in errors in payment processing. If you have any questions, please call the EFT registration desk at 410-260-7375.

Please submit form to: EFT Registration, General Accounting Division
Room 205, P.O. Box 746
Annapolis, Maryland 21404-0746

COT/GAD X-10

APPENDIX G

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and among _____, a unit of the Maryland Department of Health and Mental Hygiene (herein referred to as “Covered Entity”) and _____ (hereinafter known as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties”.

WHEREAS, Covered Entity wishes to commence a business relationship with Business Associate that shall be memorialized in a separate agreement (the “Underlying Agreement”) pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) including all pertinent regulations (45 CFR Parts 160 and 64) issued by the U.S. Department of Health and Human Services as either have been amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5); and

WHEREAS, the nature of the prospective contractual relationship between Covered Entity and Business Associate may involve the exchange of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

For good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this agreement for the purpose of ensuring compliance with the requirements of HIPAA, its implementing regulations, the HITECH Act and the Maryland Confidentiality of Medical Records Act (Md. Ann. Code, Health-General §§4-301 *et seq.*) (“MCMRA”);

NOW THEREFORE, the premises having been considered and with acknowledgment of the mutual promises and of other good and valuable consideration herein contained, the Parties, intending to be legally bound, hereby agree as follows:

DEFINITIONS.

Individual. “Individual” shall have the same meaning as the term “individual” in 45 CFR §164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

Breach. “Breach” shall have the same meaning as the term “breach” in §13400 of the HITECH Act and shall include the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information.

Designated Record Set. “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 CFR §164.501.

Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E, as amended by the HITECH Act and as may otherwise be amended from time to time.

Protected Health Information. “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 CFR §164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

Required By Law. “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR §164.501.

Secretary. “Secretary” shall mean the Secretary of the U.S. Department of Health and Human Services or his designee.

Unsecured Protected Health Information. “Unsecured Protected Health Information” or “Unsecured PHI” shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in the §13402(h) of the HITECH Act.

USE OR DISCLOSURE OF PHI BY BUSINESS ASSOCIATE.

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement, provided that such use or disclosure would not violate the Privacy Rule.

Business Associate shall only use and disclose PHI if such use or disclosure complies with each applicable requirement of 45 CFR §164.504(e).

Business Associate shall be directly responsible for full compliance with the relevant requirements of the Privacy Rule to the same extent as Covered Entity.

DUTIES OF BUSINESS ASSOCIATE RELATIVE TO PHI.

Business Associate shall not use or disclose PHI other than as permitted or required by this Agreement or as Required By Law.

Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

Business Associate shall immediately notify Covered Entity of any use or disclosure of PHI in violation of this Agreement

Business Associate shall promptly notify Covered Entity of a Breach of Unsecured PHI following the first day on which Business Associate (or Business Associate’s employee, office or

agent) knows of such Breach or following the first day on which Business Associate (or Business Associate's employee, office or agent) should have known of such Breach. Business Associate's notification to Covered Entity hereunder shall:

Be made to Covered Entity no later than 60 calendar days after discovery of the Breach, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security;

Include the individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach; and

Be in substantially the same form as Exhibit A hereto.

In the event of an unauthorized use or disclosure of PHI or a Breach of Unsecured PHI, Business Associate shall mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.

Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

To the extent applicable, Business Associate shall provide access to Protected Health Information in a Designated Record Set at reasonable times, at the request of Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR §164.524.

To the extent applicable, Business Associate shall make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an Individual.

Business Associate shall, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Should an individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. §164.528, Business Associate agrees to promptly provide Covered Entity with information in a format and manner sufficient to respond to the individual's request.

Business Associate shall, upon request with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI provided to it by Covered Entity.

Business Associate shall make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with the Privacy Rule. The aforementioned information shall be made available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate shall comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held by Business Associate.

Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. §164.502(j)(1).

Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

TERM AND TERMINATION.

Term. The Term of this Agreement shall be effective as of the date the Underlying Agreement is effective, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section IV.

Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall:

Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, terminate this Agreement;

Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or

If neither termination nor cure is feasible, report the violation to the Secretary.

Effect of Termination.

Except as provided in paragraph C(2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on

behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall not retain any copies of the Protected Health Information.

In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible. After written notification that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

Should Business Associate make a disclosure of PHI in violation of this Agreement, Covered Entity shall have the right to immediately terminate any contract, other than this Agreement, then in force between the Parties, including the Underlying Agreement.

CONSIDERATION. Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

REMEDIES IN EVENT OF BREACH. Business Associate hereby recognizes that irreparable harm will result to Covered Entity, and to the business of Covered Entity, in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in Sections II or III above, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of Sections II or III. Furthermore, in the event of breach of Sections II or III by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The remedies contained in this Section VI shall be in addition to (and not supersede) any action for damages and/or any other remedy Covered Entity may have for breach of any part of this Agreement.

MODIFICATION. This Agreement may only be modified through a writing signed by the Parties and, thus, no oral modification hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and HIPAA.

INTERPRETATION OF THIS CONTRACT IN RELATION TO OTHER CONTRACTS BETWEEN THE PARTIES. Should there be any conflict between the language of this contract and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement by its title and date and specifically state that the provisions of the later written agreement shall control over this Agreement.

COMPLIANCE WITH STATE LAW. The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under the MCMRA and is subject to the provisions of that law. If the HIPAA Privacy or Security Rules and the MCMRA conflict regarding the degree of protection provided for protected health information, Business Associate shall comply with the more restrictive protection requirement.

MISCELLANEOUS.

Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.

Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Unit/Department: _____

Address: _____

Attention: _____

Phone: _____

Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: _____

Attention: _____

Phone: _____

*IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing,
the Parties affix their signatures hereto.*

COVERED ENTITY:

BUSINESS ASSOCIATE:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A
FORM OF NOTIFICATION TO COVERED ENTITY OF
BREACH OF UNSECURED PHI

This notification is made pursuant to Section IID(3) of the Business Associate Agreement between:

- _____, a unit of the Maryland Department of Health and Mental Hygiene (DHMH), and
- _____ (Business Associate).

Business Associate hereby notifies DHMH that there has been a breach of unsecured (unencrypted) protected health information (PHI) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the breach: _____

Date of the breach: _____

Date of the discovery of the breach: _____

Number of individuals affected by the breach: _____

The types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code): _____

Description of what Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches: _____

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

Email Address: _____

Phone Number: _____